

Dame Eliz. Northcote, Executrix of Sir Arthur, Appellant.

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Sir Francis and Alice Northcote, Respondents.

A Short Answer to the Appellant's Case. Signed E. Gibbon.

Appellant's
CASE.

THE Substance of that Case is that *William Northcote* and the Respondent *Alice*, had unjustly taken from *Sir Arthur* 1600 *l.* principle Mony; which by Orders upon a hearing, and two rehearings in *Chancery* affirmed by the Lords in 1691, was Decreed to be refunded with Interest, amounting together at that time to 2797 *l.* 8 *s.* 1 *d.* but they absconding, and having Velted their Estate and Goods in Parliament-Men, the Appellant who was Inticuled to the Mony, could Levy nothing till 1699; but then got a Sequestration, which was discharged by an Order in *Chancery* of the 4th of *June*, made in a Cause commenced after the Affirmance aforesaid, whereby also the Mony so Decreed was taken from the Appellant, altho' she depending thereon, had paid her Testators Debts out of her own Mony.

And under the Case is Printed at large the Order of the House of Lords, thereby privately insinuating, as if that Order were disobeyed or controverted.

A N S W E R.

This Case ought to have some Answer, because it is untrue, evasive and fallacious in many Parts; and through the whole insincere with your Lordships, and even disagrees with another Printed Case of the Appellants. Signed Henry Poley. For,

1. First, It appears by the Proceedings in the Cause that the Respondent *Alice* hath paid full Obedience to that Decree and your Lordships Affirmance, and that she has never since pretended to controvert the same.
2. It appears by Proof that the whole Mony thereby Decreed and Affirmed to the Appellant, is allowed and paid to her with an Overplus of 693 *l.* 16 *s.* 4 *d.* to which *Samuel Rolle*, and *William Cary* Esquires are intituled as Administrators of the said *William Northcote*, and as his real Creditors for 1000 *l.* Principal Mony, and 18 Years Interest.
3. It appears that the Appellant Consented in the Court of *Chancery* to the Order of the 4th of *June* last, against which Order she now Complains, but evasively passes over in silence her Consent, and would willingly raise a Complaint against the Court of *Chancery* in gross, without mentioning one particular instance, wherein that Order is unjust.
4. It also appears that the said Case is untrue, in averring that the Order of the 4th of *June* last was made in *Chancery*, in a Cause commenced since the Appellant's Decree affirmed by the Lords; the Cause being 2 Years elder.
5. There is no Proof of any Debts paid by the Appellant beyond Assets, but a strong Presumption to the contrary, for that the Cause on which the said Order of the 4th of *June* is founded, was prior to the Affirmance of the said Decree.
6. The matter of absconding, &c. is fallacious and *gratis dictum*, without any proof to warrant it; but the Appellant being Conscious that she was overpaid, did not proceed upon the said Decree till 1699, which was immediately upon the Death of the Respondent *Alice* her last Husband, and then the Appellant like a kind Mother-in-Law, Seized the Respondent *Alice*, her whole Jointure and Subsistence.

The said Case compared with the Case of the Respondent Alice, Printed at large, is also Evasive in many other Particulars; the other printed Case of the Appellant is also very Evasive, and particularly omits to mention that the Order of the 4th of June last (against which the Appellant now Appeals) was made by her own Consent; and neither of the Cases has one Argument or Reason to justify this Appeal from an Order made by Consent.

W. Dobins.

31 January
1689 Suit Com-
menced, 16 Feb.
1691, was the
Affirmance.